

REMARKS

The Examiner has required election of a single disclosed invention for prosecution on the merits in this case. The Examiner alleged the existence of nine patentably distinct inventions:

- Group I: Claim 1 drawn to a DNA microarray, classified variously, for example in class 435, subclass 6;
- Group II: Claims 2-7 drawn to a DNA microarray, classified variously, for example in class 435, subclass 6;
- Group III: Claim 8 drawn to a primer set for PCR, classified variously, for example in class 536, subclass 24.3;
- Group IV: Claims 9 and 10, drawn to a kit comprising primer sets, classified variously, for example in class 536, subclass 24.3;
- Group V: Claims 11 and 12, drawn to a kit comprising external standard nucleic acids, classified variously, for example in class 536, subclass 24.3;
- Group VI: Claim 13 drawn to a kit comprising nucleic acid derived from a microorganism or virus, classified variously, for example in class 536, subclass 24.32;
- Group VII: Claims 14-19, drawn to a DNA microarray, classified variously, for example in class 435, subclass 6;
- Group VIII: Claims 20-25, drawn to a method of analyzing a DNA microarray, classified variously, for example in class 435, subclass 6; and
- Group IX: Claim 26, drawn to a method of producing a DNA microarray, classified variously, for example in class 435, subclass 6.

Further, irrespective of the above election, the Examiner required selection of an ultimate species based on a selection for each of the following parameters:

- A: A single specific species of a marker, (e.g., fluorescent markers);
- B: A single number of external standard probes on a microarray (e.g., two kinds of external standard probes);
- C: A single number of internal standard probes on a microarray;
- D: A single specific species of a probe, (e.g., single-stranded DNA);
- E: A single specific chain length specified for all probes on a microarray (e.g., 20 residues for internal standard probes; 30 residues for external standard probes; etc.);
- F: A single specific number of primer sets with specific amplification product lengths (e.g., two sets of primers that will produce 500 bp and 200 bp products);
- G: A single specific species of a microorganism (e.g., HIV);
- H: A single specific number of nucleic acids derived from the elected microorganism (e.g., 2); and
- I: A single specific number of external standard nucleic acids (e.g., 2).

Applicants hereby provisionally elect Group II, claims 2-7. With respect to the ultimate species, the parameters are as follows:

- A: fluorescent markers
- B: two kinds of external standard probes
- C: one kind of internal standard probes
- D: single-stranded DNA
- E: 20 residues each of internal and external probes
- F: two sets of primers that will produce 500 bp and 200 bp products

G: a "microorganism" is selected as the most specific species explicitly recited in the specification

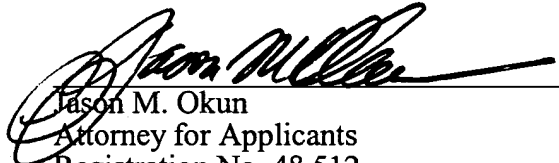
H: one nucleic acid.

I: two.

This election is with traverse. Applicants submit that all elected claims read on the elected species.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


Jason M. Okun
Attorney for Applicants
Registration No. 48,512

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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